

1
2
3
4
5
6
7
8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 JOHN GARRETT SMITH,

12 Petitioner,

13 v.

14 RON HAYNES,

15 Respondent.

16 CASE NO. 3:19-CV-5394-RBL-DWC

17 ORDER LIFTING STAY AND
18 DENYING MOTIONS

19 The District Court has referred this action to United States Magistrate Judge David W.
20 Christel. Petitioner John Garrett Smith filed a federal habeas Petition, pursuant to 28 U.S.C. §
21 2254, seeking relief from a state court conviction. *See* Dkt. 7. Currently before the Court is
22 Petitioner's Motions requesting the Court lift the stay, compel discovery, and rule on his Petition
23 and release him from custody. Dkt. 20, 31, 32, 35, 36.

24 After review of the relevant record, Petitioner's Motion to Lift Stay and Issue Subpoena
25 Duces Tecum (Dkt. 31) is granted-in-part and denied-in-part. Petitioner's remaining Motions
26 (Dkt. 20, 32, 35, 36) are denied. The Court lifts the stay and re-notes the Amended Petition (Dkt.
27 7) for March 13, 2020.

1 **I. Request to Lift Stay**

2 On November 25, 2019, the Court stayed this case pending the resolution of Petitioner's
3 interlocutory appeal to the United States Supreme Court. Dkt. 25. On January 15, 2020, the
4 Supreme Court issued an order denying Petitioner's petition for a writ of certiorari. *See* Dkt. 30.
5 Petitioner now requests the Court lift the stay as the interlocutory appeal has resolved. Dkt. 31.
6 Respondent agrees. Dkt. 33. Accordingly, the stay is lifted and this case shall proceed.

7 As all briefing is complete, the Clerk is directed to lift the stay and re-note the Amended
8 Petition (Dkt. 7) for the Court's consideration on March 13, 2020.

9 **II. Requests for a Ruling**

10 Petitioner has filed Motions arguing his underlying conviction is invalid and requesting
11 the Court dismiss Petitioner's underlying charges. *See* Dkt. 32, 35, 36. Petitioner is effectively
12 requesting this Court grant his Amended Petition. The Amended Petition is ready for this Court's
13 consideration on March 13, 2020. The Court will make a determination on the merits of
14 Petitioner's Amended Petition and subsequent briefing, not on a motion requesting relief.
15 Therefore, Petitioner's Motions (Dkt. 32, 35, 36) are denied. Petitioner is directed to refrain from
16 filing motions requesting the Court grant his Amended Petition or dismiss his underlying
17 charges.

18 **III. Discovery Requests**

19 Petitioner has filed Motions requesting the Court order the production of discovery. *See*
20 Dkt. 20, 31, 32. Under Rule 6 of the Rules Governing Section 2254 Cases, "[a] judge may, for
21 good cause, authorize a party to conduct discovery under the Federal Rules of Civil Procedure
22 and may limit the extent of discovery." Rule 6(a). "A party requesting discovery must provide

1 reasons for the request. The request must also include any proposed interrogatories and requests
2 for admission, and must specify any requested documents.” Rule 6(b).

3 Petitioner has not provided adequate explanation to support his requests for discovery.

4 *See* Dkt. 20, 31, 32. Further, the state court record has been provided and this case is ready for a
5 determination on the merits. Therefore, the Court will not grant leave to conduct discovery at this
6 time. Moreover, the Court declines to order Respondent to produce discovery as Petitioner has
7 not attempted to meet and confer with Respondent regarding any requested documents. *See*
8 Local Civil Rule 37. For these reasons, Plaintiff’s Motions (Dkt. 20, 31, 32) requesting an order
9 compelling discovery are denied.

10 **IV. Conclusion**

11 For the above stated reasons, Petitioner’s Motion to Lift Stay and Issue Subpoena Duces
12 Tecum (Dkt. 31) is granted-in-part and denied-in-part. Petitioner’s remaining Motions (Dkt. 20,
13 32, 35, 36) are denied. The Court lifts the stay in the case. As all briefing is complete, the Court
14 will not accept additional briefing in this case.

15 The Court directs the Clerk’s Office to re-open Docket 20 and re-note the Amended
16 Petition (Dkt. 7) for March 13, 2020.

17 Dated this 12th day of March, 2020.

18
19
20
21
22
23
24



David W. Christel
United States Magistrate Judge